

constitute approval of the CRP and shall incorporate the changes identified by the CRP, adjust the contract cost and/or price, establish the Contractor's share of cost savings, and incorporate the agreed to payment schedule.

(3) The Contractor will receive payment by submitting invoices to the Contracting Officer for approval. The amount and timing of individual payments will be made in accordance with the schedule to be established with the Contracting Officer. Notwithstanding the overall savings recognized by the Contracting Officer as a result of an approved CRP, payment of any portion of the Contractor's share of savings shall not be made until NASA begins to realize a net cost savings on the contract (i.e., implementation, startup and other increased costs resulting from the change have been offset by cumulative cost savings). Savings associated with unexercised options will not be paid unless and until the contract options are exercised. It shall be the responsibility of the Contractor to provide such justification as the Contracting Officer deems necessary to substantiate that cost savings are being achieved.

(4) Any future activity, including a merger or acquisition undertaken by the Contractor (or to which the Contractor becomes an involved party), which has the effect of reducing or reversing the cost savings realized from an approved CRP for which the Contractor has received payment may be cause for recomputing the net cost savings associated with any approved CRP. The Government reserves the right to make an adjustment to the Contractor's share of cost savings and to receive a refund of moneys paid if necessary. Such adjustment shall not be made without notifying the Contractor in advance of the intended action and affording the Contractor an opportunity for discussion.

(g) Limitations. Contract requirements that are imposed by statute shall not be targeted for cost reduction exercises. The Contractor is precluded from receiving reimbursements under both this clause and other incentive provisions of the contract, if any, for the same cost reductions.

(h) Disapproval of, or failure to approve, any proposed cost reduction proposal shall not be considered a dispute subject to remedies under the Disputes clause.

(i) Cost savings paid to the Contractor in accordance with the provisions of this clause do not constitute profit or fee within the limitations imposed by 10 U.S.C. 2306(d) and 41 U.S.C. 254(b).

(End of clause)

[62 FR 14033, Mar. 25, 1997]

#### 1852.243-72 Equitable adjustments.

As prescribed in 1843.205-70(b), insert the following clause.

##### EQUITABLE ADJUSTMENTS (APR 1998)

(a) The provisions of all other clauses contained in this contract which provide for an equitable adjustment, including those clauses incorporated by reference with the exception of the "Suspension of Work" clause (FAR 52.242-14), are supplemented as follows:

Upon written request, the Contractor shall submit a proposal for review by the Government. The proposal shall be submitted to the contracting officer within the time limit indicated in the request or any extension thereto subsequently granted. The proposal shall provide an itemized breakdown of all increases and decreases in the contract for the Contractor and each subcontractor in at least the following detail: material quantities and costs; direct labor hours and rates for each trade; the associated FICA, FUTA, SUTA, and Workmen's Compensation Insurance; and equipment hours and rates.

(b) The overhead percentage cited below shall be considered to include all indirect costs including, but not limited to, field and office supervisors and assistants, incidental job burdens, small tools, and general overhead allocations. "Commission" is defined as profit on work performed by others. The percentages for overhead, profit, and commission are negotiable according to the nature, extent, and complexity of the work involved, but in no case shall they exceed the following ceilings:

|   | Overhead<br>(percent) | Profit<br>(percent) | Commission |
|---|-----------------------|---------------------|------------|
| To Contractor on work performed by other than its own forces .....                | ----                  | ----                | 10         |
| To first tier subcontractor on work performed by its subcontractors .....         | ----                  | ----                | 10         |
| To Contractor and/or subcontractors on work performed with their own forces ..... | 10                    | 10                  | ----       |

(c) Not more than four percentages for overhead, profit, and commission shall be allowed regardless of the number of subcontractor tiers.

(d) The Contractor or subcontractor shall not be allowed overhead or commission on the overhead, profit, and/or commission received by its subcontractors.

(e) Equitable adjustments for deleted work shall include credits, limited to the same percentages for overhead, profit, and commission in paragraph (b) of this clause.

(f) On proposals covering both increases and decreases in the amount of the contract, the application of the overhead, profit, and commission shall be on the net change in direct costs for the Contractor or the subcontractor performing the work.

(g) After receipt of the Contractor's proposal, the contracting officer shall act within a reasonable period, provided that when the necessity to proceed with a change does not permit time to properly check the proposal, or in the event of a failure to reach an agreement on a proposal, the contracting officer may order the Contractor to proceed on the basis of the price being determined at the earliest practicable date. In such a case, the price shall not be more than the increase or less than the decrease proposed.

(End of clause)

[63 FR 17339, Apr. 9, 1998]

#### **1852.244-70 Geographic participation in the aerospace program.**

As prescribed in 1844.204-70, insert the following clause:

##### **GEOGRAPHIC PARTICIPATION IN THE AEROSPACE PROGRAM (APR 1985)**

(a) It is the policy of the National Aeronautics and Space Administration to advance a broad participation by all geographic regions in filling the scientific, technical, research and development, and other needs of the aerospace program.

(b) The Contractor agrees to use its best efforts to solicit subcontract sources on the broadest feasible geographic basis consistent with efficient contract performance and without impairment of program effectiveness or increase in program cost.

(c) The Contractor further agrees to insert this clause in all subcontracts of \$100,000 and over.

(End of clause)

[54 FR 28340, July 5, 1989, as amended at 62 FR 14034, Mar. 25, 1997]

#### **1852.245-70 Contractor requests for Government-owned equipment.**

As prescribed in 1845.106-70(a), insert the following clause:

##### **CONTRACTOR REQUESTS FOR GOVERNMENT-OWNED EQUIPMENT (JUL 1997)**

(a) "Equipment," as used in this clause, means commercially available items capable of stand-alone use, including those to be ac-

quired for incorporation into special test equipment or special tooling.

(b)(1) Upon determination of need for any Government-owned equipment item for performance of this contract, the contractor shall provide to the contracting officer a written request justifying the need for the equipment and the reasons why contractor-owned property cannot be used, citing the applicable FAR or contract authority for use of Government-owned equipment. Equipment being acquired as a deliverable end item listed in the contract or as a component for incorporation into a deliverable end item listed in the contract is exempt from this requirement.

(2) The contractor's request shall include a description of the item in sufficient detail to enable the Government to screen its inventories for available equipment or to purchase equipment. For this purpose, the contractor shall (i) prepare a separate DD Form 1419, DOD Industrial Plant Equipment Requisition, or equivalent format, for each item requested and (ii) forward it through the contracting officer to the Industrial Property Officer at the cognizant NASA installation at least 30 days in advance of the date the contractor intends to acquire the item. Multiple units of identical items may be requested on a single form. Instructions for preparing the DD Form 1419 are contained in NASA FAR Supplement 1845.7102. If a certificate of nonavailability is not received within that period, the contractor may proceed to acquire the item, subject to having obtained contracting officer consent, if required, and having complied with any other applicable provisions of this contract.

(c) Contractors who are authorized to conduct their own screening using the NASA Equipment Management System (NEMS) and other Government sources of excess property shall provide the evidence of screening results with their request for contracting officer consent. Requests to purchase based on unsuitability of items found shall include rationale for the determined unsuitability.

(End of clause)

[62 FR 36735, July 9, 1997; 62 FR 40309, July 28, 1997]

#### **1852.245-71 Installation-accountable Government property.**

As prescribed in 1845.106-70(b), insert the following clause:

##### **INSTALLATION-ACCOUNTABLE GOVERNMENT PROPERTY (JUN 1998)**

(a) The Government property described in the clause at 1852.245-77, List of Installation-Accountable Property and Services, shall be made available to the contractor on a no-charge basis for use in performance of this